

Hastings Women's Law Journal

Volume 24
Number 1 *Winter 2013*

Article 3

1-1-2013

Talk Delivered February 6, 2012, to Professor D. Kelly Weisberg's Domestic Violence Class

Rolanda Pierre Dixon

Follow this and additional works at: <https://repository.uchastings.edu/hwlj>

 Part of the [Law and Gender Commons](#)

Recommended Citation

Rolanda Pierre Dixon, *Talk Delivered February 6, 2012, to Professor D. Kelly Weisberg's Domestic Violence Class*, 24 *Hastings Women's L.J.* 59 (2013).

Available at: <https://repository.uchastings.edu/hwlj/vol24/iss1/3>

This Remark is brought to you for free and open access by the Law Journals at UC Hastings Scholarship Repository. It has been accepted for inclusion in *Hastings Women's Law Journal* by an authorized editor of UC Hastings Scholarship Repository. For more information, please contact wangangela@uchastings.edu.

Talk Delivered on February 6, 2012, to Professor D. Kelly Weisberg's Domestic Violence Class

*Rolanda Pierre Dixon**

Well, good morning, or good afternoon, whichever one is correct. When you retire you lose track of time; everything is the same. I'm so glad to be here with you today, and I'm going to talk to you about domestic violence, the prosecution of domestic violence, and touch on some issues around mandatory arrest and mandatory policies. I did have an opportunity to read the assignments you have for today, and I was laughing because a couple of my friends' names were in some of those articles that you had a chance to read. Some I agree with and some I don't, and we still have those continuing arguments until today.

So, how did I start in the domestic violence arena? Once I graduated from law school, I didn't know what I wanted to do. I thought I wanted to be a corporate lawyer, but I ended up in the District Attorney's office, and as soon as I got there, I decided, "I want to do domestic violence prosecution." Why? Because, when I was growing up in San Francisco, my very best friend—we were blood sisters, we cut our fingers and put the blood on a paper and declared ourselves friends for life. She ended up marrying an abuser after we graduated from high school. It was a long ordeal, over five years, and I worked with her, talked with her, and was finally able to get her out of that relationship. This was during the time in the early '70s when there was nothing available. She was here in San Francisco. She called law enforcement. Law enforcement would come, they'd separate the parties then ask her where she wanted to go. Did she want a ride to her parent's house? Did she want to go to a nice motel? In the meantime, her husband was in the bedroom, sometimes they wouldn't

* Rolanda Pierre Dixon is a native of San Francisco and went to Lowell High School, San Jose State University, and Santa Clara Law School. She was an Assistant District Attorney for Santa Clara County and the country's leading expert on domestic violence. She established the first domestic violence unit in Santa Clara County in 1991. She was the immediate supervisor of that unit until January 2006 when she was promoted to Assistant District Attorney. She supervised the family violence unit, which included domestic violence, elder abuse, child abuse, and child abduction. The family violence unit reviewed over 4,700 cases per year and is considered one of the premier units in the country. She is also the office's expert on human trafficking. She retired in August 2011, after thirty years of service as an Assistant District Attorney.

even wake him up. Asleep. Heater on. Feeling good. And she would be thrown out in the street in the middle of the night, sometimes with just a blanket, one time in her pajamas. She couldn't even go back in the house and have the police help her get her clothes. Instead they took her to safety, quote unquote safety [gestures air quotes] at her parents' house, and they went on their merry way. That's what officers were being trained to do in those days, and every time she told me about the experiences that she went through, the madder I got. Certainly, I was mad at the batterer, because I felt he was a criminal and should be in jail. But I was also mad at the fact that law enforcement was not assisting her.

When I looked at this whole picture, which person looked like the criminal? The person who is up in bed with a nice warm heater on and blankets, or the person who is out in the middle of the street in the back of a police car? It looked like, to me, my friend was the defendant, and he was the victim. So I kept that in mind, I kept that in mind. I got to the DA's office, and in 1981, I started asking, what are we going to do about domestic violence prosecution? Well, I can tell you, in 1981, not a lot of people wanted to hear that conversation. I remember one of our higher-ups in the DA's office actually saying, "Why do you want to do that? Come on, let me talk to you. You're young. You don't understand. You just graduated from law school, you're barely twenty-five years old. Let me explain to you what's going on here. Domestic violence, nobody wants to be bothered with it. Who do you think is going to thank you? The victim? The day after you file that report, the victim is going to come in here telling you she wants the charges dropped, she wants nothing done. You think the perpetrator's going to thank you? He thinks he has the right to do what he's doing. It's a thankless job. Now here is a stack of drunk driving cases. Take these over to court and good luck."

Well, since I wasn't independently wealthy, I took that stack of drunk driving cases (laughter) and went over to court and continued to prosecute. But my mother told me from the time I decided I wanted to be a lawyer at the age of fourteen, that I could do anything that I wanted to do, and the teacher who first talked to me about the practice of law told me one other very important thing: "lawyers speak for those who cannot speak for themselves," and that's what lit the light in me, that's what made me become an attorney. Here was my opportunity to speak for dozens, little did I know, hundreds of thousands of women who were being hurt at the hands of their intimate partners, and the children who were left to suffer as a result. And so, my voice was not stilled. I continued to ask, continued to ask.

I'll never forget one time when a deputy district attorney told me "Oh, come on, Rolanda, I don't know why you want to do that. After all, he said, "I think those women like it." Boy, did that keep my fire going. Finally, in 1985, the woman attorney in our office, who had been

designated as the domestic violence liaison person, was getting ready to leave the office, and I rushed into administration and said “I want that position,” thinking that it was some great thing, right, and they said “Yeah, go talk to her. You can have it.” So I go and talk to her and say, “What do you do as a domestic violence liaison?” And she said, “What? I’m the domestic violence liaison?” And I said “Yeah, it’s on this memorandum.” “Oh, I forgot. Yeah, twice a year I go and sit at a women’s shelter and listen to what they’re doing, and that’s it.” I said, “Well, can I have it?” She said “Sure.” Man, that was it. I took that and I ran with it. I went to all the local women’s shelters. At that time we had only two in Santa Clara County, and sat and talked to victims. Once they got over the idea that I was a prosecutor, and I wasn’t there to arrest anyone, they started talking to me, and they started telling me about their lives, about their problems, and one thing stood out very clearly—well, a couple things. One was, they wanted their batterers held accountable, and the second thing was they wanted peace in their homes. I said “Well, I don’t know what I can do, but I’m going to continue to work on it, I feel like this is a crime.” So, my work began.

Luckily for me in the early ‘80s the laws around domestic violence started to change. When we first got 273.5 of the Penal Code in the middle of the ‘80s, I went back to the administration again saying, “I want a domestic violence unit.” Everything I’d read up until that point, and there was very little—I mean you are so lucky to have class on domestic violence—there are no classes on family violence in law schools. When I went to law school there was nothing available, so I didn’t know any law professors. I didn’t know anyone who was doing this work, and what little I could find I gathered, and I went back and said, “I know that I can do this work, but I also know that it needs to be my only work, and I need to be the person running this unit, and we need to do this with those attorneys who really feel it and want to do it.” Did I get it that day? No, it took me another five years of working in the trenches, working with victims, trying the cases when they came my way, getting assigned to units where I could get a domestic violence case to prosecute.

I’ll tell you about one of the first cases I ever tried. This woman was beaten by her husband and it was filed as a misdemeanor. She had some injury, not very severe, but I also knew that she had been raped by him, and she told me right away, “I will not discuss the rape. It is too much. I can’t get on the stand and talk about it.” And the law, it’s still the same today. If victims don’t want to testify about a rape, we will not force them to. I told her, “But you have to come to court to testify about the abuse.” I said “Because if you don’t, it won’t stop.” In those days we didn’t have the power to subpoena anyone to come to court on a misdemeanor. We basically said, come on in, and if they didn’t come in, we had to dismiss the case. So that Friday before the Monday of the trial, she gave me a call, and

I said "Oh, Mrs. Jones [air quotes around name], you're coming in, right?" "Well," she said, "I thought about it. I've left the bum, and he is a bum, I've got two kids by him, he has his visitation set, and I'm done with it. I don't need to go to court to prove anything. I'm through. I'm not coming." I said, "Mrs. Jones, you have to come." I said "Please, you need to get here, we need to hold him accountable." I said "Just think about it for a moment. He is the father of your children, and no matter what you do that will never change. And one day your son or your daughter is going to pick up a paper, and on the front of that paper it's going to say that he has now murdered his next girlfriend or his next wife. How are you going to feel having to take those kids to San Quentin or to death row to visit their father?"

I don't know where that came from, it came out of thin air, but I was desperate. In any event, Monday morning I walk down the hall, and she shows up. We put on that trial and we won. Let me tell you how terrible it was in those days. We ended up winning. He was found guilty. The stuff that he said at trial was hilarious. He actually took the stand, and he said, "What do you mean I beat her up? She loves me. We even had sex." I said, "Well was it consensual?" "Consensual?! What does that mean? You know they are like dogs and cats, they say no, but they really mean yes." I picked some good jurors, so the women jurors and the men jurors looked at each other. He was sunk. End of the case. We actually all left the courtroom together; he wasn't even put in custody by the judge. So here, all three of us are in an elevator at 6:00 o'clock at night, it's dark outside, and this woman who at the time was bigger than I was—and that is saying a lot—was hiding behind me. And I am in the elevator with this briefcase thinking to myself "Well I remember what my grandmother told me, I may not win the fight, but you'll know you were in one." So, I stood up there as solid as a rock, and we got down those stairs and I walked her down to her car. She got in. I got in my car. And eventually we got him put in jail. Well that is how I started. But I was thrilled by that because I knew I had given that woman's dignity back.

Eventually I got the opportunity to ask her, "What made you come in?" She said "When you mentioned that thing about him killing the next woman," she says, "I finally realized that it wasn't about me, it was about him. And I remembered a few weeks before he had said to me, 'I have a new girlfriend now, she is cute and she is thin, if she says anything to me, I will just slap her face.'" She said "And I knew then, it just all came together, that I had to do something or he will be that person in the paper that will eventually kill his significant other and I didn't want my children to have to deal with that."

So I went forward with that, and it finally took me until 1990, believe or not, coming back from maternity leave to ask the office again, a new DA now at this point, if I could have a domestic violence unit and the answer

was “Yes.” I went home that day, laughed, celebrated, and had a ball. I thought this was the best thing that had happened to me in my whole entire life. I returned to work on November of 1990 ready to put this unit together. I got my secretary and I said “Where are all my people?” “Umm, your people, you better get a mirror, you’re it.” “Ahh!” So that is how I started a domestic violence unit in Santa Clara County, just me, the only DA. But I thought about it, and I said, “You know what? I am the supervisor. I am the only member of the unit. I am a good supervisor, and I am a good person to supervise. This works out great.”

So that is how I started the unit. I did ask the office to commit the most seasoned paralegal to me, and they did promise to do that. I trained her as my victim advocate because I had kept all those contacts for all those years with victims’ advocates and they were very clear: “DAs can do what they need to in the courtroom, but somebody needs to bolster and assist the victim through the process, and if you don’t get it done that way, you are not getting them into court. These cases are not going to move on.” So, I believed that and got my paralegal brought up to speed. She and I started going into court together. I also called all thirteen—we have thirteen police agencies in Santa Clara County—I called the chiefs of police and told all of them “There is a new sheriff in town. Any time you have a domestic violence case it must come to me for review.” And I will never forget that one part of my county—which was very well-to-do—when I spoke to the chief he was very nice and so glad to hear the news. He knew me and had seen my work in the community. He says “But you know what, we are a rich community. We really don’t have domestic violence, but thanks for the phone call.” That was Monday, by that Friday he was calling and telling me he had a case to send me where a victim had had her teeth knocked out by her doctor husband. So needless to say, I didn’t have to call him anymore after that, the cases started coming.

Once the cases started coming in we had to decide how we were going to review them. Well I had to decide how I was going to review them, make some standards. I also began to do a lot of police training because it is not just what we do as attorneys in the courtroom. We have to make sure we have cases that we can prosecute. Trying to put those cases together after the police report is taken can be difficult. How much easier would it be if you trained law enforcement officers to write good reports? When I started this work we would get a domestic violence case that said “She said he hit her.” Boom. That’s it. No photographs, no additional information, no history on the couple, no nothing. And when you call “her” [gestures quotation marks] in to testify, and she says “I never said that.” Where is your case? Down the tubes. So I started really working with law enforcement, getting up at 4:00 and 5:30 in the morning going in and doing law enforcement briefings and talking about the new change, which was “You are not to go in as mediators, therapists, or counselors. You are law

enforcement officers. You are called to the scene of a crime, it is a domestic violence crime and you handle that just like you would a burglary, a robbery, or anything else. You walk in and you separate the parties. I want two officers not one." These are big changes you know, we used to send one officer. "Two officers: one to talk to the victim, one to talk to the defendant. Separate the parties. Figure out what is going on. Take photographs." We made connections in those days with Polaroid and they were so happy we called. They became great in terms of giving us free cameras, and film. So we could start taking the pictures.

And then I began working on legislation. I thought this was going to be such an easy job, the police will bring me domestic violence cases, I will read them, I will go to court, I will prosecute them, and I will be a genius. The reality was, "Ohhh, no way." You have to do everything. Everything is along a continuum, every person involved with this domestic violence couple has to be linked or else we will not be successful. Starting with law enforcement training, now you get better reports. Those reports come to my office, but in the meantime, we have to make sure victims are protected. What's in the law? Well you can get a restraining order, or maybe you can't. Working with other lawyers and other DA's offices across the United States trying to figure out how we get different requirements in to make sure we hold these batterers in custody as long as we can. Making sure we don't have a revolving door. Section 136.2 of the penal code now states that judges can make the order immediately when the person is arrested and that they "shall not contact, shall not call," those kinds of things. Then we figured out we needed to work with pretrial services; those are the officers that make that first phone call to the victim and say "Can the person come home?" Train them about the dynamics of domestic violence, so that they understand when the victim says "Yes, I want him home." There might be something going on there. We trained them to ask them further questions, to make sure that victims are safe, that they really do want the individual home.

The next thing I did was write a protocol for the domestic violence unit. The first thing I said, "We will have a 'no drop' policy." Everyone was "Ohh what do you mean? You don't know what you are talking about. Those cases are difficult." I didn't have the subpoena power then, and "Those victims are going back out there and you are going to be stuck there holding the bag." I said, "We are going to have 'no drop' policies." But I am also going to work on my District Attorney, and I went to George and I said, "George, I need an investigator assigned to this unit; they need to go out and subpoena every single victim in the domestic violence case, personal service." "Do you know how much that was asking for? We are talking about a bunch of cases," George said. I said, "I need this because when the victim doesn't come in, I want to be able to say to the court, they

were personally served, and someone has to go out and bring him or her in.”

That was very controversial, and some of the things that are in your readings around whether you can arrest victims and bring them in spells that out. I try never to get to the point of arrest, but I did not shy away from asking the court to have the victim ordered back to court or asking sheriff’s deputies or officers to bring her in. Once they came in the judge would explain to her, “You have to be in court, this is the court date, do you understand how important this is?” “Yes, I do.” The court then released her to come back to the next court date. And that was enough to get victims in.

I certainly over the years had to cross that line, whether you arrest the victim or not, and only once in my thirty-year career did we actually put a victim in custody. It was a three strikes defendant who was looking at twenty-five to life, who had almost murdered her, had maimed her and hurt numerous other people. We knew this was one of those guys that was going to kill someone. We actually brought her in and kept her until that case was tried. It was difficult. But those are the things you have to think about as a prosecutor: What is the greatest good? When we began the DV Unit, we went from fifty cases a year to fifty a week and then to prosecuting over one-hundred cases a week. We went from me as the only Deputy District Attorney, to my supervising over ten Deputy District Attorneys in the domestic violence unit, two full-time investigators, a full-time paralegal, and a full-time victim advocate. So we really broadened the unit into what it is today.

During that process, as I began to supervise those lawyers, I got out of the courtroom and put them in the courtroom. So I would get questions like: “Well you know, boss, I have a pretty good case here, the victim is going sideways—that is what we call a victim who is now changing the story—it would really work a lot better if I was able to put the kids on the stand.” So we had that conversation, “Do you want that eight year old, ten year old or twelve year old on the stand? How much impact is there going to be on that kid for better or for worse?” We are not hard line DAs, “We don’t say, we are going to win that case no matter what.” We think about those issues and we wrestle with those issues. Sometimes we say “The case has to be dismissed we are not going to bring the kids in,” and sometimes we have to say “Oh yeah, this person is bad enough, has terrorized his family long enough.” One of my deputies tried a case with four daughters who saw their mom severely beaten in public. All four girls took the stand and testified, tears in their eyes, saying “Daddy didn’t do it,” but the jury saw through it and he was convicted. So sometimes you have to do that.

In the meantime, we continued working on legislation. I went to Sacramento numerous times; argued numerous times for changes in the law. I will never forget we had [section] 273.5 of the Penal Code on the

books but it required a traumatic injury. I had an awful lot of cases where batterers were getting smart, right? They didn't leave marks. So they were pushing, terrorizing, scaring victims to death, and being successful in traumatizing them. But I didn't have a case that I could try because I didn't have any marks. If I did get them in, and charge it as a regular battery, the person would just be fined and let go. I needed to get a new law on the books that stated even with no injury it was domestic violence and that person would have to undergo batterer treatment. Then we would be talking about something and the person would have to be on probation. So I worked with probation officers, I worked with other DAs, and a Deputy District Attorney outside of Sacramento called me and stated, "I have a bill I want to push would you support me?" He and I both went to Sacramento. I would never forget it, we took our daughters. My daughter, I think was three years old. When we get to Sacramento, I tell her "This is the legislature, this is where all the powerful laws are made, and I am so excited." And in walks a police officer with a police dog. And my daughter is like "Hey this is seventh heaven. A dog! Inside!" And she just thought it was great. As it turns out, law enforcement officers were there that day to ask for a felony penal code section that would increase the punishment for killing or hurting a police dog or police horse and they wanted a minimum amount of jail to start at eight years. I am sitting in the back of this hall with my daughter saying, "I am trying to get a misdemeanor battery section from six months to one year, so that I could ask the court for 1 year of batterer treatment. Can you give me 6 more months for a woman back here?" Thank God, it all worked out. We were able to get section 242/243(e) of the Penal Code. So that is the kind of thing we had to do, to get domestic violence where it is today.

But are we everywhere that we need to be? No. We still have to do training; we still work on the protocol every single year. I currently chair our Domestic Violence Council in Santa Clara County and even in my retirement just reviewed our last protocol update. We still go and train officers and make sure they understand what it means to go in and make these arrests. We want to make sure that they interview the parties; that they put all the information down. We ask them to look down the road toward the trial, giving them an understanding of why we need this information. As prosecutors we need the documented statements that the victims make at the scene, because when they get in court and give us a different statement we can use that original statement against them. We explain that the officer as the first responder has to be there and has to get that information so that we can use it. We want you to get an additional address where she might go, not just the current one but one she might be going to. Where does her mom live? Where is her next address? Why? As things start to happen in the process of the case we have other places to find that victim. Find out about the history of domestic violence between

these parties; has it happened before? Oh yeah, you are first respondent, what is she going to say? “Yes, six months ago he beat me up, I fell down a flight of stairs, I lost my baby, I went to the VMC, our local hospital, but I lied and I said I slipped and fell. But he really was the one that beat me.” What does that do for us as lawyers? That is additional evidence. I can get a subpoena for the medical records, figure out what was being said and use that in my current case. The law has changed overtime allowing us to go back and talk about prior instances of domestic violence.

Was there a previous girlfriend, a previous wife, a previous partner? Those are wonderful to have. The law allows us to use their testimony if it occurred within ten years of the current case. There is nothing better than seeing a defendant walk into a courtroom, with a Brook Brothers suit on, looking like butter wouldn’t melt in his mouth. Knowing he is getting ready to get away with it because he’s got the victim scared to death. The victim, outside the door saying to me, “Ms. Pierre-Dixon, I am ready to testify, I am tired of this abuse, I am going to get him,” and then we walk into the courtroom and she takes one look at the defendant, he smiles, I look over at her and she says, “He didn’t do it, I hit myself. I slipped on a banana peel.” And then about two minutes later, additional witnesses start to walk in: ex-girlfriend, ex-wife, ex-partner. Are they looking like jello around the defendant? No. They are ready to tell the story. So, that’s how we were able to prosecute a lot of cases.

We had a case that had a very serious defendant, very scary. The victim in that case was willing to come forward but she was really, really afraid, and we found out that he had an ex-wife in Arizona. We got ahold of her. She had divorced him about five years before and we found out that he had been abusive with her for over ten years. She was ready to testify. She had gone through five years of therapy and she was ready to come to court. My deputy thought he had his case made. We got closer and closer to trial and our current victim was starting to go sideways. The defendant starts saying, “If you take me back, things are going to be different. If you just give me an opportunity, I won’t batter you again. I am going to go to church, I’m going to change. We got these kids together.” Anything he could say to get her to lie about what had occurred. But we knew we had this nugget, I mean we had this ex-wife. Again, the Friday before the trial, my deputy comes to me and says, “Rolanda,” he says, “boss, it’s all over.” I said, “What are you talking about?” He says, “I just got a call from the previous victim. She is saying she cannot come in. She thought she was ready, but over the last week, she has had nothing but flashbacks and all kind of bad dreams about what had occurred. She just cannot do it. She can’t get on that plane.” He said, “Now, we have a subpoena. We made sure that we got a foreign subpoena out there and we had her served. He said, “I can make her come. But should I?” This is where I had to sit down with him and go through the moral dilemma. Was it worth it to take this

person, who had now gotten away, was happy, almost healthy, and drag her back through this whole process again? In the end, I looked at him and I said, "Well, you know, I think it's a lot to ask for a person who has gotten away and is doing well. The final call is on you because you are the person who has to try the case. Can you do it? Can you make it without her? Try to figure that out over the weekend and if you can, don't bring her in." He came back Monday morning and he said, "Boss, I think I can do it." He went to trial and he won that case. And we were able to call that victim in Arizona and say, "Thank you for being willing but this is what happened. That is why we didn't bring you out."

So, I tell you that story to let you know that we think about all these things because what we are doing as prosecutors is trying to make things better for victims, for their children, and certainly for perpetrators. I fought long and hard to get the fifty-two week batterer treatment program into the law because I really believe if you get these batterers at the lower levels of violence, you can make them change. I also have to be realistic. Families are not going to divorce at the first instance of domestic violence. At one of the first big conferences I ever went to as a brand-new deputy district attorney, with a brand-new unit there were over five-hundred people from all different disciplines, advocates and lawyers and law enforcement in attendance. One of the questions a speaker asked was "How many of you would leave your spouse or significant other the first time they hit you?" Five hundred people and they asked for a show of hands. Guess how many hands went up? One, mine. I was like, "Oh yeah, I'm out of there. Mmmhmm. Gone, forget it. In fact he doesn't even have to hit me. He could hit the wall and that is enough. I'm gone." Everybody else is like, "What if you have kids? What if you have a home? What if these things are . . . What if they have been a great person up until this time?" I'm out of there. Are you kidding me? I'm gone. And then I began to understand. This is reality here, OK. These people are tied together and if there are children, it's a lifetime worth of tied together. These individuals are not going to necessarily divorce or split the first time he is violent. So you have to figure out if they are going to stay together, how can they stay together in a healthy relationship, as opposed to unhealthy. Now, isn't that a wonderful thing for a prosecutor to be thinking about. You know most prosecutors, "I'm no social worker, forget it. My job is to march in that courtroom and try that case and get out of there." Well, not if you're doing domestic violence. You're going to be a social worker, you're going to be a therapist, you're going to be a teacher, and you're going to be a prosecutor. All of those go hand in hand to make your job successful.

So that is what we started doing. Started really working, looking at these cases. We looked at things like dual arrest. Our policy in Santa Clara County is a "shall arrest." It doesn't say "must," so it's a play on words. "Must" means every time, every single case involving domestic violence

you have to make the arrest. “Shall” arrest is a little bit stronger than “could” arrest or “may” arrest. Shall arrest means you will arrest when you have developed probable cause to believe the individual did something abusive to the victim. You shall make that arrest. But you still have the discretion not to arrest. Now this is a wonderful policy to have because you never want to take all the discretion away from a professional and certainly not a professional who is on the scene. Where am I as a DA reading this case? I’m in my office two or three days later maybe even two or three weeks later, reading a police report. The law enforcement officer is at the scene, as we call it the “hot scene,” where everything just went down. They have to make the call based on their training and experience whether they have a domestic violence situation and if someone should be arrested. So you never take away all the discretion. We train officers so they ask all the right questions.

The Penal Code also talks about arresting the primary aggressor. We started looking at that concept: primary aggressor. The term “primary aggressor” just did not sound right. What does that mean to most people when you hear the term “primary aggressor?” What do you think?

Student: “The one who started the fight.”

Pierre-Dixon: The one who started it, the first one. That’s not really what domestic violence is all about, is it? It’s about dominant aggressor. Who is really in control of the violence is the real question. Who cusses and curses and calls her a “slut” or a “cunt”? My two *favorite* words. She slaps him, so he says “Oh, boy I got her!” See the little mark on my face, she’s arrested, she’s going down. We go in and . . . and see he has beaten her to a pulp. “Oh, it was self-defense,” he says. Now do both people go to jail in these instances? If you’re not trained they may, because both have injuries, it’s a domestic violence incident, they are a couple, they are involved. No way. You have to ask further questions. Who was in control of this violence? Who is really dominating this situation? Have there been prior incidents of domestic violence? Yes. Who was the aggressor? Has this happened before?

I had a victim one time get on the stand and testify that she hit her husband numerous times before he beat her badly in front of her house and ran her face through the gravel. She actually had gravel imbedded in her skin (motions to her face). And she testified it was all her fault. I asked her how tall she was, she responded, “5 feet.” I asked her how much she weighed, she said “One-hundred pounds.” Her husband was 6’2” and 250 pounds, okay. So what do you think the jury is doing? (Gestures her head/body back and forth). You must look at height and weight and the difference in size, what’s really going on here? Self-defense isn’t the real truth. Maybe that’s part of the reason I love domestic violence prosecution. I tell everyone “There is never a boring day.” Just when you think you have seen it all, and I mean I HAVE SEEN IT ALL, okay? Four thousand

cases over 25 years, please. I can still go to work, or I can still sit on the DV Council and go "Well, oh my God, I have never seen that."

Different racial backgrounds and immigrants, what is going on here? Well African-American women, especially dear to my heart, we have a real problem of getting them to come forward and report. African-American women get caught in a catch-22. We have two things going on as black women. One of them is "Come on, Rolanda, who would hit you?" Every woman who ever did any kind of domestic violence work in all the years that I have done it, has always heard whisperings. "Well she's an advocate because she is a former victim," or "She's a prior victim." I said, "Well how come no one has ever said that about me and I have done this work for 30 some odd years." They go "Oh, Rolanda, who would hit you?" That's the stereotype of a black woman. You aren't going to let anyone touch you. In my case it's true, but at any rate that is the fallacy out there. So here's this black woman with that hanging on her shoulders and then there is the other end of the spectrum. "If I call law enforcement, what did I do? I turn one more black man, or if the partner is a woman, one more black woman over to the system." You've all seen the statistics out there of how many black men are in prison. More than are in college. The reality is that this is decimating my community, so now this woman is a victim in a catch-22. I want help but I don't want to admit I am weak and at the same time I don't want the law coming in and everyone looking at me as "that" person who got their partner locked up.

So we do a lot of work talking to our ethnic communities about doing what's right. The reality is, you must call. You have to call to get help. You have to use the system. You cannot put yourself in a position as many women have not getting help and eventually killing their partner. Isn't that a great thing? "I killed him." Uh, where are you going to go once you kill your partner, may I ask? Let me tell you. You will be going to jail. First degree murder, let's think about that. For most batterers, beating up their partner who is a little bit weaker and a little bit smaller, they can come in and say it was self-defense and they just went too far, manslaughter. We come in and say, no way, but it will be a battle. And what about the victim that says she shot and killed her batterer while they were asleep? What's that? Premeditated murder. So you can see why so many women are in custody for killing their batterer. Thank goodness the law has come around a lot in this area and victims can now—"victim-defendants"—bring in proof that they were in fact battered woman. For many years you couldn't do that, now you can get that information in. But I tell victims all the time, "So what? If you kill another human being, your life will never be the same. Now the S.O.B. may have deserved killing, but you have to live with the stain of a death on your soul. And when your children come to you and say, 'Where's daddy?' 'Oh, I killed him. Pass me the Cheerios?' It's not going to be that easy. The reality is, pick up that phone. Make that

911 call, let us intervene. I don't want one single woman in Santa Clara saying that killing is the only way I could stop my batterer. That is not a solution, okay?

Immigrant implications: So many women in my community and San Francisco is no different, they are a melting pot. Every color in the rainbow. Many, many immigrants. I could easily tell you within two weeks who the newest immigrant population is in town because I will have a domestic violence case. With that case comes a lot of strings. Victims who are not citizens are afraid. What's the first thing a batterer is going to tell an immigrant woman? They'll deport you! Two years from now when I am supposed to sign that document that is supposed to give you your green card, I ain't gonna do it. What if you have children? What do you think he is going to say about the kids? He's going to say, "They are going to stay with me." And you're going to get sent back to your country because I'm the dad and I have the control. And if they come from a male-dominated society? Do they believe it? Oh yeah they believe it. Many times they've said "I'm going to get you deported." I say that sounds like a good thing and we may have been poor, but hey, at least I wasn't living in violence. But he says, I'm going to keep the kids. The victim also understands America and what it represents in terms of opportunity for her kids. She does not want to take that opportunity from her children. So now the choice becomes staying in the violence for the sake of the kids or getting out of the violence without your kids. What do you think most victims do?

Yeah, they stay, okay? We have actually found flyers in different communities. Hispanic communities, Vietnamese, Korean, everything you can think of, they actually had flyers saying there is a new domestic violence law where victims can go in and petition for their own citizenship. So beware because women will make up stories about domestic violence. As fast as you do good stuff, defendants and perpetrators are coming up with new ways to continue to do what they do. The federal law does allow that victim to go in and petition, self-petition, for their own citizenship if they are a victim of domestic violence. So we try to make sure that information gets out so the victim knows "I am not putting my status at risk by reporting this batterer." We also made sure that our law enforcement officers do not ask the victim about citizenship status. Citizenship status is not something you need to know. It is not pertinent. What we need to know is whether or not this person beat up the other person and that is all we need to know. And we want to make sure victims know it because the reality is there are so many immigrant women that are living a tough life. As you heard I also did a stint in human trafficking. And looking at these victims brought over (air quotes "over"), under the guise of marriage or whatever and later finding out that they were brought here to be slaves.

I will never forget one case where we had a Russian "bride" [gestures indicating quotation marks around bride], we had a lot of Russian bride cases, brought over by a guy who was an engineer. She thought, "Oh, my goodness my prayers are answered, I'm coming to America, and I'm going to have this great life." She is going to go to school and be educated. She's going to save all this money and she is going to save all her family back in Russia. Oh, does she have a dream. What was he really thinking? "I'm getting a slave. She's coming over. I need someone to take care of my dog. And it costs you like \$10 a day to put this dog in a kennel and I have to travel all the time for my engineering business. It will be cheaper to get a darn wife. Not an American wife because those broads get 50%." (Chuckles). "I'm going to get me one of those Russian brides, they don't know any English, don't have anybody here, don't have a support system and she will feed and take care of my dog. Now how much better of a deal . . . and I get sex in the deal . . . how much better could it be?" And he literally brought this woman over to take care of his dog. But he didn't know that she was from such a poor background that they didn't know anything about taking care of dogs. They could barely take care of themselves. And when she wasn't up to snuff in terms of caring for that dog, he started beating her. Luckily he had allowed her to go to church and in her church some people got concerned and made some calls. And finally we were notified. But those are the kinds of things that happen with immigrant woman that don't have ties to a community. There are many of these battering personalities looking for immigrant women because they don't want a victim who is in the bosom of her family. Because if she is, it's harder to get away with what they want.

They want their victim one-hundred-percent dependent on them. We talked about CPS. It's really a concern, social services. If I call, will they start looking at the situation and look at me and say, "Well wait a minute now, Mrs. Jones, this is the third time we've been out here. You're getting beat up again, your husband is a slime ball and he is a drunk. You ain't looking too good yourself. Let's just take the kids." And that's a real fear for victims. And I can't tell you standing here that this has never happened, that children have never been taken away. But what I can say is that's a tough process. And I used to also supervise our dependency unit in the DA's office because I really wanted to look at this issue. We looked long and hard before taking children away from their parents under the theory that there is a failure to protect the children by the parents. You really have to look at what's going on and I tell you the bottom line is, what is in the best interests of the child?

One of the worst arguments I ever had, I was sitting at a conference and a woman gets up to speak about domestic violence. She had five children. Every time her husband severely beat her, she would go into her children's bedroom, and as they were cowering under the bed she would

stay there and cry with her kids, and hold her kids and say “You are my rock, you are my foundation. This is why I am able to keep going from day to day and I just love you kids so much.” And this went on and on and after she wouldn’t come to court. She would hide from process. He would be released from jail, but “I still had my kids.” And she is telling this story and I am sitting there furious. And as you can probably tell, I’m not the quiet type. So she got through with her talk and everyone is thinking “Oh, poor woman, system came and snatched her kids.” And I stood up in the back and I said, “But you have something very wrong in the story.” People start rolling their eyes (rolls her eyes), saying “Oh, Rolanda is getting ready to say something.” I said, “Your children are not your rock and your foundation. You’re supposed to be theirs. The reality is that these children were living in abject hell. You had to make the decision along with the DA’s office, along with social services on how to get away from this violence on a daily basis.” Yes, I feel bad, I feel terrible. Children need to be with their mothers. A mother’s love is precious, I have a daughter. But you have an obligation as a parent to make sure you give them the best life you can and living in violence day after day is not the way to do that. And so, that sets up that dilemma. However, this is one we have to figure out as a society and find what is truly in the best interests of the child.

Now talking about uncooperative victims, you ask “Well how do you bring the case if the victim is uncooperative?” That’s where all the other work comes in. We try to find local experts in the area to come in and testify about battering and its effects . . . not battered woman’s syndrome, that’s off the charts because it sort of sounds like a mental disease or something . . . the correct terminology is “battering and its effects.” Someone who is being battered, how would they appear in court? Would they actually come into court and say it didn’t happen? Yes, they would. You get that expert to come in and say why. For all the many reasons: misplaced love or real fear. I always tell the story of the victim who when outside the courtroom was adamant that “We are going to trial. I want him dead. Ms. Dixon do anything you can.” And then once in the courtroom looking at the defendant she falls apart. Now what causes that? I have talked to victims over the years and they say “it’s the ‘look.’” He could be smiling, he could look great, but behind that smile, what? She sees the truth: “If you testify, I’m gonna kill you, I’m gonna hurt you.”

I remember growing up in San Francisco, one of four daughters. My mom taking us to the store on payday and before we get ready to go to the store we are so happy, jumping up and down saying “We want this, we want that.” Mama says, “Well hold on.” She looked me right in the eye and says, “Rolanda, we aren’t buying fruit loops and no Captain Crunch. We aren’t getting any Frosted Flakes, none of that crap okay? I’m buying that big bag of toasted wheat that we always eat for breakfast cereal.” I’m like, “Aaahhh, OK.” “And if you ask me for any of that stuff in the store,

I'm gonna kill you." My other sister, she wanted Barbie things. My mama said, "You aren't getting any Barbie doll, shoes or purse. You aren't going to get any of that and if you ask, I'm gonna kill you." And down the line she would go, with all of us. And off to the store we went and what would happen? I'm right in that cereal aisle, "Mama, please, Mama. Just some Captain Crunch." And my sister would say "Just this Barbie . . ." And did my Mama drop everything and beat us right there in the store? In those days she might have gotten away with it, it was the early '60s (chuckles), but instead my mother would just turn to us, and smile. Those Frosted Flakes would drop out of my hand, the Barbie out of my sister's, and we would just get behind Mama. And anyone looking at us would say, "Now look at that. Those little kids were acting up and now they are perfect and their mother is just smiling, look how cute. They so nice." What did we see in that smile? "I'm gonna kill you." My mama has already stated that "I'm gonna kill ya, and I'll get away with it. I'm gonna knock you out right in the store, and I'll do it in public." I mean we heard all these things. And all of a sudden when she gives us that smile, oh lord. She doesn't say out loud, "Oh you can't have it." She already said that back at home. Her look at us reminds us of what she said earlier and we know if we continue asking there is going to be trouble. We have been in those stores, we have seen those mothers. "Put it down, put it back." The kid puts it in the basket. And she finally gives up and she buys it. That was not my mother. That was not going to happen. So we put it back on the shelves and we got in line.

And unfortunately that was what we see with battered woman. It's that silent thing. That's why I always have victim advocates come to court, even if it is a pre-trial conference or arraignment, we have someone there. Batterers are starting to "work, on the victim." Trying to get the story changed in their favor. For so many years we thought, this is not our job, we are the prosecutors. We don't have time to deal with whether he is staring over there from that jury box and mad dogging her. What do we do now? We have bailiffs trained to pay attention and see what's going on. We have judges looking, we have victim advocates looking. Immediately they go to the judge and say, "He's looking at the victim. . . ." and they get in trouble. But it takes training of all that courtroom personnel to start cutting down on this intimidation. This is why I wanted DV courts. I fought really hard and we now have three full-time judges in Santa Clara County that only hear domestic violence cases. It is amazing to walk into that courtroom and for the victims it's great. That victim who believes, "I'm the only one being battered. I'm the only one who has a partner that is abusive. What can I do to change myself to make sure this doesn't happen?" This victim walks in and sees women of every color and every race, from rich to poor also being victims of domestic violence and they begin to realize, I am not alone.

You need a judge who understands domestic violence. I had one judge, she was so funny. She was our presiding judge in DV court. She knows I would just send tons of cases over there. They were going and going. And one day she says, "Oh, my God." Here comes a defendant and the guy is in custody and he is like 85 years old. He is barely able to walk. He gets in there with his little jumpsuit on and I will never forget the judge says, "Oh my God, Rolanda has done it now. Look at this poor man and she put him in custody." [Chuckles.] And then in comes the wife and daughter and she is in her eighties sitting in the back. The judge says to the woman, "Ms. Jones, do you want to come forward, do you want a restraining order in this case?" And the little old guy is sitting over there, wheezing. And he looks like he is going to die any minute, as his wife starts walking up to the bench, she sees out of the corner of her eye the defendant starting to straighten up. He looks over at his wife as she is walking over there and he looks like he could just kill her. The judge could see what he was doing over there and the victim says to the judge, "Yes, he's beating me and if I could just get a restraining order." [In a soft, old-lady voice.] She puts the restraining order on him and she (the judge) calls me on the phone after court. She says, "I can't believe it! I thought you had finally gone crazy, but then I saw the truth."

Domestic violence does not care what color you are, doesn't care what size you are, doesn't care what your background is, and doesn't care what your age is! Okay? For that victim, she had been battered for over fifty years. And finally, a member of her church said, "Enough is enough." Not just a member of her church, her minister called. So the bottom line is, we try to make sure we understand that. That's why I love having the family violence unit from child abuse all the way up to elder abuse. We understand that this stuff happens throughout families and the life cycle of a family and we have to look at everything and everyone in the home, including the animals, but that is another lecture we could talk about.

So bottom line you try to make sure that you put together everything you can to help make these cases. You bring that expert in on battering and its effects. You make sure that the law enforcement officer is well trained. You make sure that you have contact with that victim from the very beginning. When I first started the DV unit, the first thing I did was to start to generate letters from the computer to the victim. I sent them out to victims right away: This is what was charged, I am the DA in charge of the unit, you can give me a call, here is my phone number. Here is the victim advocate and their phone number. Also, in a few days the victim advocate will be giving you a call. And everyone says, "Oh, Rolanda, you can't send out those letters. If you send out those letters, the batterer is going to get them. Because that is how batterers are, they watch everything. And then she is going to get beaten up again." I said, "You know what? That may be true. But he just beat her up for burning the beans, I wasn't there,

and if I don't give that victim information, where is she going to get the information from about her case? Where is she going to get it from if she doesn't get it from me?" Get it from him? Like I had one victim call me and say, "I'm all ready to go through with the case, Ms. Dixon, and I know you charged him with a 273.5 misdemeanor, but I just can't see him doing 30 years to life for this case." Thirty years to life? On a misdemeanor? Did you do the math? It is one year in the county jail maximum. "What? But he called me last night, told me he was doing 30 years. Why would he say that?" "Because he is a liar. I'm here to tell you what the truth is." So they aren't going to get the truth, they are going to get information, but they aren't going to get the right information without calling the DA's office. And the other thing is, if I don't inform that victim of what is going on in that case, who else is being battered in that process? We are. I am. We are letting the batterer batter me. [Pointing to herself.] That fear he has put on the victim is now on me if it prevents me from doing the right thing. That isn't happening. I am sending the information and don't think I didn't get those calls when I first started sending those letters. Oh yeah. "Oh, somebody just sent my wife this letter!" "And your name is?" Oh, I would get real professional. "Mr. Jones!" "And, uh, Mr. Jones, how did you get possession of that particular letter?" "Well . . . uh . . . uh . . . uh." "Well, I hope you didn't open the mail because you understand that is a federal offense?" "What. . . I . . . blah blah." Okay? So, you have to be the one who is in the position of power that says, that is not going to happen. I have had victims tell me that I am with you but when I get in that courtroom "Watch out, because he is really manipulative and he is going to look at you and, Ms. Pierre Dixon, you are going to be a goner. You are going to give up everything." I say, "Oh, OK." We walk into the courtroom. Up comes Mr. Jones, he is *pro per* because he doesn't need an attorney because he is right and he didn't do anything. What the heck, he tidied up a little bit and says to me, "I'm here to talk about my case." "Mr. Jones, have a seat." What did he do? Have a seat. Victim: "Oh, my God. I have never seen that, mmm-hmm. Things are looking up."

The reality is we cannot be seen as part of the system that is manipulated by batterers. We have to do the hard work. When I started doing this work, I was also doing judicial training. Training judges. And did I hear some things then! As a lawyer training judges, and hearing a judge say: "I'll be damned if I take a man's children away because she said he hit her. He can be a good parent and a batterer." And I just said those two things cannot coexist at the same time. So it really is some tough work, some hard work, but I love it. Every minute of it. I continue to love it, because bottom line, no one deserves to be battered. I have listened to all those arguments that say we as DAs are sort of taking the place of the batterer because somehow we are forcing the prosecution of these cases. My answer to that is having been the chair of the domestic violence death

review board from 1994 to 2011, every victim that was murdered by their batterer did not commit suicide. If you think that a victim knows when it is time to leave, then how do you explain those dead folks? The reality is they do not know how dangerous it is and it is our responsibility to understand that a crime is being committed. I had one year where we lost twenty-one victims to domestic violence death in Santa Clara County. Five of them were children. I had a case a few years ago where he killed all three children, his second wife, and himself. He left his first wife alive to receive three caskets coming back to her containing her children that she had sent to him for weekend visitation. The reality is we have to do what is right in the face of a whole lot of wrong. And we do not want to go backwards, the not doing anything, the not arresting, the giving the victims the right to dismiss cases. We tried that and we had about 20 years of it and what we ended up with was a whole lot of battering going on. I speak of all over the country. I have been all over the United States and it never surprised me that domestic violence was prevalent. I could be in a church group or in a professional group, it didn't matter. Somebody at the end of that conversation would tell me "I am a formerly battered woman." The last person in the world you would expect. "I never told anyone. I suffered in silence for twenty years." Or, "My mother was beaten for years." It is time to take the rag off the bush, as my mother used to say, and start telling the truth. No one deserves to be battered. Silence in this case is not golden. If victims cannot speak, we as attorneys must speak up. We speak for those who cannot speak for themselves.

Well, I will leave you with this one story. I had a law student intern one year. I always had law student interns in the beginning because it was a great and inexpensive source of help. I had one intern that came in and wanted to work in domestic violence. She gets into court and I say to her, "Go over there and talk to that victim, tell her what is going on, what is happening, does she have anything she needs to tell you. Blah blah blah." After about two weeks, she comes to me and says, "You know what, Ms. Pierre Dixon, you know I like going to court, but talking to victims, I don't think that is attorney work. I just want to get the case and, like, try the case. I don't want to talk to victims." So I act all shocked and crazy and say, "Oh, you don't want to talk to victims?" So I say hold on, I get on the phone with a good friend of mine who was working in the office at the time on a big homicide case. I said, "Do you need someone to do some research?" She said yes, so I told the intern to go and work for that attorney, and off she went. A couple of months later, she takes the bar and passes the bar. She then puts in an application for the DA's office. Of course they ask me, what do you think. "Forget it." Anybody that cannot talk to a victim in a case they are going to try is not the kind of deputy district attorney that we want. Victims are a part and parcel of the process. You are working with real lives and real human beings. That is what

makes it exciting. You have to get in there and do what you do. Now we get our investigators in there because we don't want you to become a witness in the case. But you have to know what your case is all about and that means getting in there and working with them. I have trained so many lawyers over time who walked in and said, "This is the hardest work I ever did." But when it came time to get an assignment change, the first thing they said is "I don't want to go." Thank you.